

# CHANGES WITHOUT REGULATORY EFFECT UNDER CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

## Statement of Explanation

### Changes to Title 18. Public Revenue

Regulation 1533.1, *Farm Equipment and Machinery*.

#### **A. Factual Basis**

The State Board of Equalization (Board) adopted California Code of Regulations, title 18, section (Regulation) 1533.1, *Farm Equipment and Machinery*, in 2002 to prescribe the application of the partial exemption from sales and use tax for sales and purchases of “farm equipment and machinery, . . . purchased for use by a qualified person [and] to be used primarily in producing and harvesting agricultural products” provided by Revenue and Taxation Code (RTC) section 6356.5. Regulation 1533.1, subdivision (b)(6) defines the term “qualified person” as that term is used in RTC section 6356.5. Regulation 1533.1, subdivision (b)(5) defines the phrase “producing and harvesting agricultural products,” as that phrase is used in RTC section 6356.5; however, the last sentence in the first paragraph of subdivision (b)(5) incorrectly cross-references itself, instead of subdivision (b)(6), for the definition of a “qualified person,” as follows:

Nevertheless, the specific activities of sun drying or artificially dehydrating fruits and vegetables as described in Code 2034 of the SIC Manual qualify as producing and harvesting activities where those activities are performed by *a qualified person as defined in (b)(5)* or a person who assists a qualified person as defined in (b)(3). (Italics added.)

Therefore, the Board proposes to revise the last sentence of the first paragraph of subdivision (b)(5) to correctly refer to a qualified person as defined in subdivision “(b)(6),” rather than a qualified person as defined in subdivision (b)(5). The Board has determined that this change to Regulation 1533.1 is appropriate for processing under California Code of Regulations, title 1, section (Rule) 100 because the change merely corrects an internal cross-referencing error and does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Furthermore, the Board has noticed that there is no period at the end of the reference note for Regulation 1533.1 and the Board proposes to add a period to the end of the reference note to correct the typographical error. The Board has determined that this change to Regulation 1533.1 is appropriate for processing under Rule 100 because the change merely corrects a typographical error and does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

The Board is not proposing any further changes to Regulation 1533.1 or appendices A and B to Regulation 1533.1.

## **B. Proposed Change to Regulation 1533.1**

Proposed change to Regulation 1533.1:

Regulation 1533.1. Farm Equipment and Machinery.

(a) General. . . . (unchanged).

(b) Definitions. For purposes of this regulation:

(1) . . . (unchanged).

(A) . . . (unchanged).

(B) . . . (unchanged).

(2) . . . (unchanged). “Parts of farm equipment and machinery” means:

(A) . . . (unchanged).

(B) . . . (unchanged).

(3) . . . (unchanged).

(4) . . . (unchanged).

(5) “Producing and harvesting agricultural products” means those activities described in Major Groups 01, 02 and 07 of the SIC Manual. Major Group 01 includes establishments engaged in the production of crops, plants, vines, and trees (excluding forestry operations). This major group also includes establishments engaged in the operation of sod farms; in the production of mushrooms, bulbs, flower seeds, and vegetable seeds; and in the growing of hydroponic crops. Major Group 02 includes establishments engaged in the keeping, grazing, or feeding of livestock for the sale of livestock or livestock products (including serums), for livestock increase, or for value increase. Livestock, as specified in Major Group 02, includes cattle, hogs, sheep, goats, and poultry of all kinds; also included are animal specialties, such as horses, rabbits, bees, pets, fish in captivity, and fur-bearing animals in captivity. Major Group 07 includes establishments engaged in performing soil preparation services, crop services, veterinary services, animal services, landscape and horticultural services, and farm labor and management services. Producing and harvesting agricultural products involves the cultivation of land or the growing, raising, or gathering of the commodities described in Codes 0111 to 0291 of the SIC Manual and integral activities thereto described in Code 0711 to 0783 of the SIC Manual. Such activities include, but are not limited to, flame weeding, pest control, nut hulling and shelling, crop drying, cotton ginning, poultry and pig brooding, livestock breeding, water heating, crop heating, and fruit ripening. Producing and harvesting agricultural products also includes the washing of agricultural products, the inspection and grading of agricultural products or livestock, or the packaging of agricultural products for shipment. Except as otherwise provided under Major Groups 01, 02 or 07 of the SIC Manual, producing and harvesting activities do not include post harvesting activities nor those activities described or otherwise designated in Major Group 20 - Food and Kindred Products

of the SIC Manual. Nevertheless, the specific activities of sun drying or artificially dehydrating fruits and vegetables as described in Code 2034 of the SIC Manual qualify as producing and harvesting activities where those activities are performed by a qualified person as defined in (b)(~~5~~)(6) or a person who assists a qualified person as defined in (b)(3).

For example, a person engaged in a SIC Code 0172 establishment that performs activities such as producing grapes on a grape farm or vineyard, who uses crop drying equipment primarily to remove moisture from the grapes to prevent mold, will qualify for the partial exemption if the grapes are owned by a qualified person engaged in an establishment described in SIC Code 0111 to 0291. However, a person who is exclusively engaged in a SIC Code 2034 establishment that sun dries or artificially dehydrates fruits and vegetables such as dates, prunes or raisins, that purchases grapes from a grape farm, and uses crop drying equipment primarily to change the character of the commodity from a grape to a raisin, will not qualify for the partial exemption since he or she is not engaged in a qualified SIC Code activity. A person engaged in a qualified SIC Code that performs a harvest activity will qualify for the partial exemption to the extent the qualified property is used primarily in such qualified activity despite the fact that the property may otherwise be used less than 50% of the time in post-harvest activities by a person undertaking activities described in SIC Code 2034.

(6) . . . (unchanged).

(7) . . . (unchanged).

(c) Partial Exemption Certificates.

(1) In General. . . . (unchanged).

(2) Blanket Partial Exemption Certificates. . . . (unchanged).

(3) Form of Partial Exemption Certificate. . . . (unchanged).

(A) . . . (unchanged).

(B) . . . (unchanged).

(C) . . . (unchanged).

(D) . . . (unchanged).

(E) . . . (unchanged).

(F) . . . (unchanged).

(G) . . . (unchanged).

(4) Retention and Availability of Partial Exemption Certificates. . . . (unchanged).

(5) Good Faith. . . . (unchanged).

(d) Partial Exemption Certificate for Use Tax. . . . (unchanged).

(e) Refund of Partial Exemption.

(1) . . . (unchanged).

(2) . . . (unchanged).

(f) Improper Use of Partial Exemption.

(1) Property Used in a Manner Not Qualifying for the Partial Exemption. . . . (unchanged).

(2) Purchases by Non-Qualified Persons. . . . (unchanged).

(g) Purchaser's Liability for the Payment of Sales Tax.

(1) . . . (unchanged).

(2) . . . (unchanged).

(h) Leases to Qualifying Persons.

(1) Leases -In General. . . . (unchanged).

(2) Leases -Acquisition Sale and Leaseback. . . . (unchanged).

(3) Subsequent Lease of Property Acquired Subject to Partial Exemption. . . . (unchanged).

(i) Records. . . . (unchanged).

(j) Operative Date. . . . (unchanged).

Note: Authority cited: Section 7051, Revenue and Taxation Code. Reference: Section 6356.5, Revenue and Taxation Code.

Appendix A. . . . (unchanged).

Appendix B. . . . (unchanged).